SUPREME COURT, U. S.

Supreme Court, U.S.
FILED
OCT 19 1970
E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

October Term, 1970

No. 553

JAMES ALFRED MARTIN, doing business as
SILKO NEW IMPROVED PRODUCTS COMPANY,
Petitioner,

v.

CROWN ZELLERBACH CORPORATION.
Respondent.

MOTION FOR LEAVE TO SUPPLEMENT PETITION

JAMES ALFRED MARTIN
2121 9th Avenue, South
Birmingham, Alabama 35205
Pro se

Birmingham Publishing Company

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Petitioner,

v.

CROWN ZELLERBACH CORPORATION,
Respondent.

MOTION FOR LEAVE TO SUPPLEMENT PETITION

Petitioner respectfully moves for leave to supplement the petition filed in this case on August 17, 1970, with the annexed supplementary matter which was not available until October 6, 1970, and which consists of corrected drawings to show the distinctive curved lettering of petitioner's trademark in classes 15, 18, and 52.

In the petition for writ of certiorari, on page 8, it was stated that said drawings were correctable by amendments pursuant to section 7 (d) of the Trademark Act of 1946. The amendments, which were pending at that time, were approved by the Commissioner of Patents and published in the Trademark Section of the Official Gazette of the United States Patent Office, volume 879, page 50, on October 6, 1970.

SUPPLEMENT

On page 8, under the Reasons for Granting the Writ, at the end of line 11, add:

> Amendments to aforesaid drawings of Petitioner's trademark in Classes 15, 18, and 52 have been approved by the Commissioner of Patents and appear in the Supplement as Appendices "F", "G", and "H", respectively.

REASONS FOR GRANTING THE MOTION

The difficulty encountered with the drawings arises because, whereas the original SILKO products in 1916 were in the same Class and were sold with the SILKO mark in curved, capitalized letters, in the interim from 1916 to 1954 both the Trademark law and the Classification of Goods were changed. This necessitated new applications in different Classes. The Patent Office practice is to permit only one drawing for each certificate of registration although more than one item may be included thereon.

In making the drawing for Class 18, the small letters of the paper label around the body of the container were used instead of the larger, distinctive, curved letters of SILKO on the lithographed top.

In the interim from 1954 to 1964, when the application for the registration in Class 15 was filed, the Patent Office relaxed the long established practice of requiring drawings to draftsman-standards and accepted typewritten drawings.

In light of the inability of the Court below to correctly decide the issue with inaccurate drawings, the need for granting the motion is indisputable.

Respectfully submitted,

James Alfred Martin

JAMES ALFRED MARTIN
2121 9th Avenue, South
Birmingham, Alabama 35205
Pro se

October 16, 1970

DOCUMENTS

APPENDIX F TO PETITION FOR WRIT OF CERTIORARI

Amendment

Registered July 13, 1965 Registration No. 792,481

James Alfred Martin, doing business as Silko New Improved Products Company

Application to amend having been made by James Alfred Martin, owner of the registration above identified, the drawing is amended to appear as follows:

SILKO

Such amendment has been entered upon the records of the Patent Office and the said original registration should be read as so amended.

Signed and sealed this 6th day of October 1970.

William E. Schuyler

Commissioner of Patents.

Attest:

K. E. Patrick

Attesting Officer.

APPENDIX G TO PETITION FOR WRIT OF CERTIORARI

Amendment

Registered July 13, 1954 Registration No. 592,386

James Alfred Martin, doing business as Silko New Improved Products Company

Application to amend having been made by James Alfred Martin, owner of the registration above identified, the drawing is amended to appear as follows:

SILKO

Such amendment has been entered upon the records of the Patent Office and the said original registration should be read as so amended.

Signed and sealed this 6th day of October 1970.

William E. Schuyler, Jr.
Commissioner of Patents.

Attest:

K. E. Patrick
Attesting Officer.

APPENDIX H TO PETITION FOR WRIT OF CERTIORARI

Amendment

Registered November 30, 1954 Registration No. 598,889

James Alfred Martin, doing business as Silko New Improved Products Company

Application to amend having been made by James Alfred Martin, owner of the registration above identified, the drawing is amended to appear as follows:

SILKO

Such amendment has been entered upon the records of the Patent Office and the said original registration should be read as so amended.

Signed and sealed this 6th day of October 1970.

William E. Schuyler, Jr.

Commissioner of Patents.

Attest:

K. E. Patrick

Attesting Officer.